

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JUDGE: Richard Schell

COURT REPORTER:  
Jerry Kelley

COURTROOM DEPUTY:  
Bonnie Sanford

**ELLIOTT**

**vs.**

**CIVIL NO. 4:05cv344**

**LINNELL, ET AL**

PRESENT: Richard Gladden, for Plaintiff; Gus Elliott; Allison Welch,  
Legal Assistant

Seth Dennis and Shanna Molinare for Mark Linnell and  
Gregory Prickett; Renaldo Stowers, Sr. Assoc. Gen.Counsel  
at UNT.

This day, 4/20/2009, came the parties and by their attorneys the following proceedings were held before Judge Richard Schell in Plano, Texas:

- 9:19 am The court called the case, noting the appearance of counsel.
- 9:22 am The court addressed preliminary matters. Plaintiff abandons punitive damages claims.
- 9:56 am Voir Dire process begins.
- 10:35 am Mr. Gladden voir dires the jury.
- 10:50 am Mr. Dennis voir dires the jury.
- 11:04 am Court recesses the jury. Individual voir dire begins.
- 11:57 am The clerk reads the jury names and they are seated. Remaining panel is dismissed. Jury is sworn in. Preliminary instructions are given by the court.

12:09 am Court recesses for lunch until 1:30 pm.

1:38 pm Court resumes. Plaintiff witness Donna Elliott sworn. The jury is brought into the courtroom and seated.

1:41 pm Opening statements for plaintiff by Mr. Gladden.

1:50 pm Opening statements for defendant by Ms. Molinare.

1:59 pm Mr. Gladden calls plaintiff witness Gregory Prickett. Witness sworn in.

2:04 pm **Plaintiffs exhibit # 1 admitted.**

2:52 pm Cross examination by Mr. Dennis.

3:11 pm Re-direct by Mr. Gladden.

3:16 pm Re-cross by Mr. Dennis.

3:19 pm Re-direct by Mr. Gladden.

3:21 pm Court recesses for 15 minutes.

3:39 pm Court resumes. Jury brought into courtroom and seated.  
**Plaintiff's exhibit #4 admitted.** Re-direct by Mr. Gladden resumes.

3:49 pm Witness excused. Mr. Gladden calls plaintiff witness Mark Linnell. Witness sworn in.

3:56 pm Cross-exam by Mr. Dennis.

4:05 pm **Defense exhibit 38 (partial portion of one page) admitted.**

4:09 pm Cross-direct by Mr. Gladden.

4:13 pm Witness excused. Mr. Gladden calls plaintiff witness Donna Elliott, who was previously sworn in.

4:24 pm Jury dismissed. Court takes up matters with counsel outside jury presence.

4:28 pm Jury brought into the courtroom and seated. Mr. Gladden resumes Direct examination of witness Donna Elliott.

4:32 pm **Plaintiff's exhibit #8 admitted.**

4:35 pm **Plaintiffs exhibit #12 admitted.**  
4:39 pm Witness excused.  
4:41 pm Jury recessed until Tuesday at 9:00 am.  
4:48 pm Court recessed until Tuesday at 9:00 am.

**DAY TWO April 21, 2009**

9:06 am Court resumes. Dr. Wayne Bishop and Chief Daniel McCollum sworn in. The jury is brought into the courtroom and seated.  
9:10 am Mr. Gladden calls witness Dr. Wayne Bishop.  
9:33 am Cross-exam by Ms. Molinare.  
**Defendant's exhibit 42 admitted.**  
9:48 am **Defendant offers and the court admits the completion of plaintiff's exhibit #8.**  
9:58 am Re-direct by Mr. Gladden.  
10:04 am Re-cross by Ms. Molinare.  
10:09 am Re-direct by Mr. Gladden.  
10:13 am Witness excused. Mr. Gladden calls plaintiff's witness Dan McCollum.  
10:57 am Court recesses for 15 minutes.  
11:15 am Court resumes. Mr. Gladden resumes direct exam of witness Dan McCollum.  
11:18 am Cross-exam by Mr. Dennis.  
12:24 pm Court recesses for lunch until 1:45 pm.  
1:45 pm Court resumes. The jury is brought into the courtroom and seated.  
Re-direct by Mr. Gladden.  
2:02 pm Re-cross by Mr. Dennis.  
2:06 pm Re-direct by Mr. Gladden.  
2:07 pm Witness is excused. Mr. Gladden calls to the witness stand Gus Elliott.

2:53 pm Cross-exam by Mr. Dennis.

3:11 pm **Defense exhibit #38 (3 pictures) are admitted.**

3:14 pm Re-direct by Mr. Gladden.

3:18 pm Witness excused. Jury dismissed to jury room. Matters taken up outside the jury's presence.

3:19 pm Defense moves for judgement as a matter of law based on qualified immunity.

3:40 pm Jury is brought into the courtroom. Jury is dismissed until Wednesday at 9:30am. Court is recessed for 15 minutes.

4:08 pm Court resumes outside the jury's presence.

4:35 pm Court recesses.

5:00 pm Court resumes. The court denies the defendant's request for judgment as a matter of law.

5:24 pm Court recessed until Wednesday at 9:30 am.

### **DAY THREE - April 22, 2009**

9:48 am Court resumes. **Continuation of Denton County Court records plaintiff's exhibit #8 (previously admitted), now marked as Defendants exhibit #44 received. Defendant's exhibit 42, received (previously admitted).**

10:01 am The court sustains the defendants objection to the report. Witnesses Martin Denbar and Albert Rodriguez are sworn in.

10:04 am The jury is brought into the courtroom and seated. Ms. Molinare calls defense witness Dr. Martin Denbar.

10:39 am Cross-exam by Mr. Gladden.

10:41 am The jury is dismissed to the jury room. The court takes up matters outside the jury's presence.

10:43 am The jury is brought into the courtroom and seated. Cross-exam by Mr. Gladden resumes.

11:15 am Re-direct by Ms. Molinare.

11:22 am Witness excused. Court recessed for 15 minutes.

11:39 am The jury is brought into the courtroom and seated. Mr. Dennis calls defense witness Albert Rodriguez.

12:16 pm Court recesses for lunch until 1:30 pm.

1:48 pm Court resumes. The jury is brought into the courtroom and seated. Mr. Dennis resumes direct exam of Albert Rodriguez.

2:03 pm Cross-exam by Mr. Gladden.

2:46 pm Re-direct by Mr. Dennis.

2:51 pm Witness excused. The defense rests. The plaintiff rests.

2:53 pm Jury excused and instructed to return Thursday, April 23<sup>rd</sup> at 10:30 am. The court takes up matters outside the jury's presence.

3:00 pm Parties to return Thursday, April 23 at 8:30 am. Court recessed.

**DAY FOUR - April 23, 2009**

8:45 am Court in session for charge review. Defendant's motion for judgment as a matter of law is denied.

9:12 am Court recesses.

9:25 am Court resumes.

10:17 am Court recesses.

10:49 am Court resumes.

10:52 am The jury is brought into the courtroom and seated. The court reads the instructions to the jury.

11:18 am Plaintiff closing by Mr. Gladden.

11:45 am Defense closing by Mr. Dennis.

12:11 pm Plaintiff rebuttal closing by Mr. Gladden.

12:22 pm Case goes to the jury.

2:47 pm      The court receives a note from the jury. The court reviews the note with counsel.

3:07 pm      The court takes up a matter of the jury with counsel.

4:04 pm      Court back in session. Jury has announced a verdict.  
As to Interrogatory #1, Linnell- No. Prickett - No

4:06 pm      The court addresses the jury.

4:12 pm      Court recessed.